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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/894,917	06/29/2001	Peter J. Macer	1509-192	4609
22429	7590	08/30/2004	EXAMINER	
LOWE HAUPTMAN GILMAN AND BERNER, LLP 1700 DIAGONAL ROAD SUITE 300 /310 ALEXANDRIA, VA 22314			SWEARINGEN, JEFFREY R	
		ART UNIT	PAPER NUMBER	
		2143		

DATE MAILED: 08/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/894,917	MACER ET AL.	
	Examiner	Art Unit	
	Jeffrey R. Swearingen	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-59 is/are rejected.
- 7) Claim(s) 1, 35 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 29 June 2001 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. It has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

Claim 1 is objected to because of the following informalities: "the user" should be denoted as "an user", as a user has not been previously disclosed. Additionally, inconsistent terminology is present in reference to "portable entertainment machine" and "portable entertainment device". Appropriate correction is required.

Claim 35 is rejected to because of the following informalities: "The machine as claimed in claim 1" is stated as being "a ring tone". Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 36 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 36 claims "software encoded on a data carrier". A data carrier is defined to include a piece of paper or a radio signal. Neither a piece of paper nor a radio signal is considered to be a "computer readable medium." Software is only considered statutory subject matter if stored in a "computer readable medium" that can be executed on a machine. See MPEP 2106.IV.B.1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-59 rejected under 35 U.S.C. 102(e) as being anticipated by Hawkins et al (US Patent No. 6,516,202).

Claim 1 claims a “portable (an “organizer component” (Column 2, line 33) that “may be any handheld computer, or small size electronic device.” (Column 2, lines 35-36). The American Heritage College Dictionary defines “portable” as “carried or moved with ease.” A handheld computer is capable of being carried or moved with ease) entertainment (The American Heritage College Dictionary defines “entertainment” as “something that amuses, pleases, or diverts,” and defines “divert” as “to distract,” and defines “distract” as “to cause to turn away from the original focus of attention or interest.” The mobile computer system described by Hawkins can cause a user to change their focus of attention when the device alerts them to an incoming telephone call, therefore it distracts the user. Because the device distracts the user, it can be stated that the device diverts the user; and because the device diverts the user, it can be stated that the device is a form of entertainment.) machine comprising a digital object store adapted to store digital objects (The mobile computer system designed for

wireless communication expansion includes a personal organizer (Column 1, line 44), which can hold data for a schedule or an address book (Column 1, lines 16-17). In order to hold the data, the mobile computer system must have a memory unit to store the data), having a short-range wireless transceiver device capable of transmitting and receiving signals that are representative of a digital object to and from the transceiver of another portable entertainment device (The mobile computer system discloses a cellular element (Column 3, line 36) with a data connection button (Column 3, line 37) which allows a user to connect for access to the World Wide Web, e-mail, fax, or other data transfer (Column 3, lines 43-45). Because the cellular element can be utilized as a telephone (Column 2, lines 20-21), it is inherent that it can both receive and transmit signals), and a manually operable control adapted to permit the user of the entertainment machine to exercise at least some control over swapping of digital objects between the digital object stores of two or more such entertainment machines." (The mobile computer system includes a touch screen (Figure 3A, Items 305 and 310). Both the push buttons and the touch screen require manual operation by the user. The touch screen is adaptable, as shown in Figure 8A)

Claim 2 claims an electronic display capable of being used to display to the machine user one or more of any digital objects currently held in the digital object store of the machine. (Figure 9B of Hawkins shows an example screen output for the mobile computer system with icons displayed on the electronic display shown in Figure 3A, Item 305.)

Claim 3 claims an electronic display, which comprises a visual display. (Figure 3A of Hawkins, Item 305)

Claim 4 claims an electronic display, which comprises an audible display (Figure 3A of Hawkins, Item 365).

Claim 5 claims a display adaptable to display the entire contents of the digital object store. (Figure 8A of Hawkins discloses the output of the electronic screen as used for a phone application. The output varies based upon the selections of the user; therefore the display is adaptable. Item 810 of Figure 8A shows a listing of the user's entire speed dial listings. The speed dial listings are saved in ROM (Figure 4, Item 425) in the cellular component to the personal organizer (Figure 8A, item 850). Therefore the display is able to show the entire contents of the digital object store)

Claims 6 and 43 claim a display adaptable to display a list of the objects held in the store and capable of displaying a more detailed representation of a digital object when that object is selected from the list. (Figure 8A of Hawkins discloses a speed dial screen where when a user selects a name button in Item 810, a more detailed description of the selected button appears in Item 820.)

Claim 8 claims a manually operable control that comprises a touch-sensitive device. (Figure 3A discloses a writing area (Item 310) on which a user may enter information. For one embodiment, the user may also enter information manually by writing directly on screen 305. (Column 2, lines 56-59))

Claim 9 claims a machine comprising a casing of a size that is suitable for putting in a pocket. (Hawkins discloses a mobile computer system comprising an organizer

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component and a cellular component (Column 2, lines 33-34). The cellular component (Figure 3A, Item 350) inserts into the organizer component (Item 300). The organizer component may be any handheld computer or small size electronic device. (Column 2, lines 35-36). Because the cellular component fits into the organizer component as shown in Figure 3A, the cellular component will minimally increase the footprint of the organizer when combined into a mobile computer system. Because the organizer component is a small size electronic device and the addition of the cellular component will minimally increase the size of the device, the device is suitable for putting in a pocket.)

Claims 10 and 44 claim a machine adaptable to provide to the user information on data objects that become potentially available to be acquired from a similar machine (Similar machine can be defined as any machine capable of storing and transmitting data to the mobile computer system) that comes within range of the machine (Because the mobile computer system utilizes cellular technology, it is able to be in range of any similar machine that is on a telephone network connected to a cell tower by any telephonic means) to enable the user to take a decision on whether or not to proceed with a potential swapping transaction. Claims 15 and 49 claim a machine provided with an alert device (Figure 8A of Hawkins discloses a screen (item 810) at the top of which indicators are displayed. These indicators, or alerts, include a signal strength indicator (Column 7, lines 30-31) and a message indicator (line 30) that can indicate either a voicemail message or a text/e-mail message (line 33) is available to be received) for alerting the user to the availability of a potential swap. (The signal strength indicator

tells whether the phone is in range of receiving data objects. If a message indicator is present, the user is able to make a decision on whether to download the voicemail, text or e-mail message. If the user decides to download the message, the mobile computer system must send information from the transmitter to the similar machine to retrieve the message. Because data is transmitted and received by the mobile computer system to a similar machine in order to download the message, data is swapped with a similar machine.)

Claims 16 and 50 claim a machine adaptable to transmit an incomplete digital object for sampling by the user of another machine. (Figure 3A of Hawkins shows a cellular component (item 350), which inserts into an organizer component (item 300) to form a mobile computer system. The cellular element (item 350) enables the user to initiate a data connection, for access the World Wide Web, e-mail, fax, or other data transfer. Figure 5A shows the flowchart for integrating the cellular component and the organizer component (Column 5, lines 9-11) to form the mobile computer system. At block 540, the system determines whether the cellular element has been removed from the slot (lines 45-46). Since the information is being transmitted to the transceiver in the cellular component and is controlled by the computer in the organizer component, separating the cellular component and the organizer component will terminate any communication between the organizer and the transceiver, thus terminating any transmissions from the transceiver. By removing the cellular component during transmission of a digital object, a user is able to transmit an incomplete digital object. Since another machine would only receive a portion of a digital object transmitted if the

transmission were terminated in this manner, it would in essence be sampling the digital object for the user.)

Claims 17 and 51 both claim a machine adaptable to transmit a data object for sampling over a limited length of time to facilitate making a decision whether or not the data object is to be acquired by proceeding with a swap transaction. (As applied to Claims 16 and 50, a machine can terminate its connection with the cellular component by separating the two portions of the machine. Terminating the connection between the cellular component and the organizer component will terminate either a transmission in progress or a reception in progress since separating the cellular and organizer components will prevent the physical connection between the two necessary to complete the transmission or reception. A user is able to make a decision to acquire the data object, and if user chooses not to receive the object user can separate the two components of the mobile computer system to terminate the connection after receiving a portion, or sample, of the data object over a limited length of time.)

Claims 19 and 53 claim manually operable selection means (As applied to Claim 8, Hawkins discloses an electronic display area which user can write upon in Figure 3A, item 310.) to enable the user of the machine to select which data objects are transferred from the retention portion of the store to the selected article window portion of the store and vice-versa. (As applied to Claim 5, said electronic display is adaptable based upon selection of data objects as disclosed in Figure 8A. In Figure 8A, selection of a particular data object in item 810 executes instructions on the mobile computer system

and moves the data object (in the case of Figure 8A a name and telephone number) to fill the screen)

Claim 33 claims a machine adaptable to be operable as a mobile telephone (Figure 3A of Hawkins shows a cellular component (item 350) being connected to an organizer component (item 300) forming a mobile computer system designed for wireless communication expansion. Figure 5A shows a flow chart for operation of the mobile computer system upon detection that the cellular component has been attached to the organizer component. Item 510 in Figure 5A is the start of the flow chart, and after recognizing the cellular component (item 515) and performing setup functions (items 520, 525, 530) the mobile computer system functions as organizer and telephone (item 535), said display being used to display the telephone functions. (Figures 8A, 8B, and 8C show the display output for the telephone functions, including a keypad for dialing (Fig. 8A, item 825) and the ability to hang up (Fig. 8A, item 840))

Claim 37 claims apparatus (As applied to Claim 1, Hawkins discloses a mobile computer system designed for wireless communication expansion) to enable a plurality of players to swap digital objects, the apparatus comprising a short-range wireless network (The mobile computer system includes a cellular component, which when connected to another machine via a cell tower comprises a short-range wireless network.), a plurality of portable entertainment machines for carrying by respective players, each machine being as claimed in Claim . (The mobile computer system is able to communicate via CDMA (Carrier Detect, Multiple Access) or TDMA (Time Division, Multiple Access) with the cellular component (Column 2, lines 42-44). Multiple Access

means more than one system can access the cell tower, therefore more than one machine can access the network to swap digital objects.)

Claim 42 claims a computer program product comprising a computer usable medium having computer readable program code embodied therein (Hawkins discloses a computer readable medium, or ROM in Figure 4, item 125, which contains code as shown in Figure 5A, items 520-530, including cellular software for the computer) executable by a portable entertainment machine (Hawkins as applied to claim 1 discloses a mobile handheld computer) which comprises a short-range wireless transceiver device (Hawkins as applied to claim 1 includes a short-range wireless transceiver) capable of transmitting and receiving signals to and from the transceiver of another portable entertainment device (see claim 1), and a manually operable control (see claim 1) adapted to permit the user of the entertainment machine to exercise at least some control over the use of the transceiver device: the computer program product comprising code that when loaded into the portable entertainment machine causes the portable entertainment machine to be capable of swapping, by way of the transceiver device, (signals that are representative of digital objects for swapping digital objects between digital object stores of two or more such entertainment machines. All other unlisted claims are rejected by virtue of dependency.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 1 above, and further in view of Khan et al. (US Patent No. 6,754,509).

Claim 7 claims a portable entertainment machine with a voice-activated manually operable control.

Hawkins discloses a mobile computer system designed for wireless communication enhancement as applied to Claim 1. Hawkins also employs a digital signal processor (DSP) in the cellular component of the mobile computer system (Figure 4, item 460). Hawkins fails to disclose the ability to use voice-activation with the DSP.

Khan discloses a mobile communication device that is capable of voice recognition (Column 5, line 66 – Column 6, line 2). Khan teaches that a DSP is typically employed to perform vocoder functions (Column 2, lines 40-41) but can also be used by a personal digital assistant (PDA) to respond to voice commands (Column 2, lines 41-43).

Motivation exists to add voice recognition capabilities to the Hawkins device so that user can operate the device by using voice commands for the cellular component. (Khan, Column 5, line 66 – Column 6, line 2)

It is obvious to one of ordinary skill in the art that the DSP in the Hawkins mobile computer system should be modified to accept voice commands in order to operate the system via voice activation.

Claims 11 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 1 above, and further in view of Langseth et al. (U.S. Patent No. 6,741,980).

Claim 11 claims a machine in which the machine is capable of being provided by the user with a standing instruction to swap a certain data object or category of data objects in the data object store for another specified data object or category of data objects if such a required object or object category becomes available for swap, and any conditions imposed on the swap by the user are complied with.

Claim 45 claims code means to provide the functionality described in Claim 11.

Hawkins discloses a mobile computer system capable of initiating a data connection for access to the World Wide Web, e-mail, fax, or other data transfer (Column 3, lines 43-45). Hawkins fails to disclose a standing instruction to swap data objects when they become available.

Langseth discloses a system and method that actively delivers information to individuals via e-mail, spreadsheet programs (over e-mail), pager, telephone, mobile phone, fax, personal digital assistants, HTML e-mail, WAP devices and other formats (Column 3, lines 10-14). A subscriber signs up to receive a service from a channel of information (Column 3, lines 20-23), which may be delivered based upon a schedule, an exception (such as an alert trigger condition) or upon initiation by an external system or

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person. (Column 3, lines 36-39) When a subscriber signs up to receive a service, that action can be considered a continuous request for information and data, or a standing instruction to swap data objects if requested data objects become available. A channel can be information and transactional data about a particular field of interest, such as business, weather, sports, news, investments, traffic and others. For example, a weather channel could deliver information and data about weather conditions when a special weather alert is present (Column 9, lines 39-54).

There is motivation for the inventor to use the Langseth system and method with the Hawkins mobile computer system. The American Heritage College Dictionary defines personal digital assistant as a "lightweight, hand-held, usually pen-based computer used as a personal organizer." Hawkins meets this definition as applied to Claim 1. Hawkins also includes the functionality of a unitary cellular telephone (Column 2, line 21). Langseth's system and method is designed for use with mobile phones and personal digital assistants (Column 3, lines 12-14).

It would be obvious to one of ordinary skill in the art that since the Hawkins mobile computer system functions as two of the devices that Langseth's system is designed for use with, that Langseth's system should be applied to Hawkins.

Claims 12-14 and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 1 above, and further in view of McDonald (U.S. Patent No. 6,745,197).

Claims 12 and 46 claim a retained object portion for storing data objects which the user has decided to keep and a selected article window portion of the data store in

which data objects are placed for which the user has taken a preliminary decision to dispose of provided an acceptable swap deal can be arranged.

Claims 13 and 47 claim when a portable entertainment machine comes into range of a similar machine, information is transmitted to the other machine to inform the other machine of the content of the selected window store.

Claims 14 and 48 claim a reciprocal display portion to display the contents of the selected article window store of another machine that comes into range.

Figure 8A of Hawkins discloses a screen (item 810) at the top of which indicators are displayed. These indicators include a signal strength indicator (Column 7, lines 30-31) and a message indicator (line 30) that can indicate either a voicemail message or a text/e-mail message (line 33) is available to be received. These indicators can be also called alerts because they alert the user to the presence of a message to be downloaded. Similar machine can be defined as any machine capable of storing and transmitting data to the mobile computer system. Because the mobile computer system utilizes cellular technology, it is able to be in range of any similar machine that is on a telephone network connected to a cell tower by any telephonic means. The signal strength indicator tells whether the phone is in range of receiving data objects. If a message indicator is present, the user is able to make a decision on whether to download the voicemail, text or e-mail message. If the user decides to download the message, the mobile computer system must send information from the transmitter to the similar machine to retrieve the message. Because data is transmitted and received by the mobile computer system to a similar machine in order to download the message,

data is swapped with a similar machine. Upon swapping the outgoing email with the other machine, the machine receiving the electronic message data object is able to display its content on the machine's respective display, or article window store. The data object upon being swapped is treated like any other data object as applied to Claim 5. Hawkins fails to disclose a system and method for accessing multiple machines.

McDonald discloses a system and method for efficiently processing messages stored in multiple message stores. McDonald refers to archived electronic message stores (Column 1, line 50) in use to store electronic messages that are physically stored as data objects containing text or other content (Column 1, lines 65-67). Each message store can include an integral or separate archive message store for off-line storage (Column 5, lines 8-11) that can be considered a retained object portion for storing data objects which the user has decided to keep. Each message store may contain an "Outbox" message folder for outgoing messages and the like (Column 5, lines 14-15) that can be considered a selected article window portion of the data store in which data objects are placed for which the user has taken a preliminary decision to dispose of provided an acceptable swap deal can be arranged.

Motivation exists for the inventor to connect two message stores in different mobile computer systems such as Hawkins by way of McDonald's method and system because electronic messaging has brown to encompass automated workgroup activities, the exchange of electronic documents and multimedia content, and can be easily be communicated to an audience ranging from a single user, a work group, a corporation, or even the world at large (McDonald, Column 1, lines 17-25)

Claims 18, 30, 31, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 1 above, and further in view of Giobbi (U.S. Patent No. 6,749,510).

Claim 18 claims a mobile computer system as claimed in claim 1 in which the data object is a game program, and the machine is so arranged that the current owner of the game can allow the user of another similar machine within range to sample playing of the game by exercising game control over the wireless connection, the game being run on the machine of the current game owner.

Claim 30 claims a machine in which the digital data object is a game program which when run on the entertainment machine enables the user to play a game.

Claims 31 and 52 claim a machine as in claim 30 in which the game implemented by the digital data object involves an additional player or players who communicate with the said entertainment machine, on which the game is run, by means of a short-range wireless network, the additional player/s not gaining access to a copy of the game through playing the game.

Hawkins discloses a mobile computer system as applied to claim 1. Hawkins fails to disclose the use of a game or allowing others to run the game remotely from the mobile computer system.

Giobbi discloses a centralized gaming system (column 2, lines 38-39) in which a display terminal (Column 2, line 40), or remote computer, visually represents the outcome (column 2, lines 50-53) of a game executed by a master game server (column 2, lines 43-50). The remote display terminal and the central server system are

comprised of a master game server, a multi-user game execution server, and database server (column 3, lines 27-29). The central server system is where the game is located and executed, and can be alternatively described as the current game owner. The display terminal may include physical lighted push buttons or other means for selecting the game selection indicia (column 5, lines 32-35), which can be alternatively described as buttons used to control the game. The display terminal and the central server system may each be outfitted with transceivers that support two-way wireless communication (column 3, lines 41-43). If the same game is selected for play at more than one remote display terminals at the same time, the game play software utilizes true multi-user procedures so that only one copy of the game play software for that game need be loaded into the game execution server.

Motivation would exist for a user of Giobbi's centralized gaming system to utilize remote handheld units (column 2, lines 22-27) such as Hawkins' mobile computer system because downloading the game software to the gaming machine across a communications link can be time-consuming and subject to security concerns (Giobbi column 1, lines 64-67).

It would be obvious to one of ordinary skill in the art that Hawkins' mobile computer system would work well with Giobbi's centralized gaming system which allows remote users to execute their games on another machine without downloading the software.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 30 above, and further in view of Giobbi as applied to claim 30 above, and even further in view of Lavanchy et al. (U.S. Patent No. 6,758,754).

Claim 32 claims a machine as claimed in claim 30 in which the digital data object comprises a game feature for assisting a player to play a game.

Hawkins discloses a mobile computer system with wireless communication expansion as applied to claim 1. Giobbi discloses a system and method of running a game remotely over a wireless connection as disclosed in Claim 30. Hawkins and Giobbi fail to disclose a feature to assist a player in playing a game.

Lavanchy discloses a system and method for interactive game play including a home page to introduce concepts, explain procedures and rules, and present various aspects of the competition (column 6, lines 4-6). Since this explains procedures and rules of the competition/game, the home page can be described as a game feature for assisting a player to play a game.

Motivation exists for the inventor to add Lavanchy's home page to the game running remotely via Giobbi's system and method on Hawkins' device. Lavanchy's home page could display a brief paragraph (column 6, line 10) explaining how the game works (column 6, lines 11-12).

It would be obvious to someone of ordinary skill in the art to add Lavanchy's home page of procedures and rules to a game running via Giobbi's system on Hawkins' device.

Claims 20-24 and 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 1 above, and further in view of RFC 765, File Transfer Protocol (FTP), published October 1985.

Hawkins fails to disclose swap proposal indicator means.

RFC 765 states that the User-PI (protocol interpreter) (2.2) initiates the control connection to the server and initiates FTP commands. The User-PI is the claimed machine in Claim 20, and the FTP commands include RETRIEVE and STORE (4.1.3), which are swap proposal indicator means for indicating to another, similar machine the swap transaction being proposed. The FTP command LIST (4.1.3) causes a list to be sent from the server to the passive DTP (data transfer process, see 2.2) of a list of files in the specified directory. The LIST command is a linking indicator function adapted to link the representations of the digital data objects, or files, held by the two machines in their selected article window stores, or specified directories, and to communicate that link indicator to the other machine. The RETRIEVE command (RETR, 4.1.3), or output of the linking indicator function of the machine which first suggests a swap proposal, causes the server-DTP to transfer a copy of the file, specified in the pathname, to the server- or user-DTP at the other end of the data connection. Transferring a copy of the file is the swap approval indicator means, which is adapted to respond to transmit a response to the other machine in answer to the output of the linking indicator. The FTP commands specify the parameters for the data connection (data port, transfer mode, representation type, and structure) and the nature of file system operation (store, retrieve, append, delete, etc.). (2.3) These parameters comprise swap control function

arranged to be initiated on acceptance of a proposed swap by a similar such machine. The data connection in FTP may be used for simultaneous sending and receiving (2.3). This data connection in FTP comprises a swap protocol utilized, which ensures that the data objects that have been agreed to be swapped are transmitted simultaneously by the two machines.

Motivation exists for the inventor to transfer files between two hosts, as stated in 2.3 of RFC 765. Both hosts would be the two machines swapping files.

It is obvious to one of ordinary skill in the art to utilize the File Transfer Protocol with the Mobile Computer System to transfer files, or digital objects, to other machines.

Claims 25-29 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 1 above, and further in view of Ramachandran et al. (U.S. Patent No. 6,47,640).

Hawkins discloses a machine comprising data object input means to enable data objects to be loaded into the machine as applied to claim 1. Hawkins further discloses a physical serial connection for the mobile computer system (Column 2, lines 64-65). Both a physical serial connection and a wireless connection can be considered data object input means comprising a reader when used to connect with a physical storage medium because the physical storage medium is being read for data. Hawkins fails to disclose using the mobile computer system with a data object vendor to use purchasing transactions to enable data objects to be loaded.

Ramachandran discloses an automated transaction machine (ATM) that is operative to dispense digital information to a portable computing system (Column 3,

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lines 24-27) such as digital sound recordings (Column 3, lines 54-57). Digital information can be considered a data object, and the ATM can be considered a data object vendor. The ATM is programmed to accept a fee from a user in exchange for outputting either digital information or saving digital information to a portable storage medium or portable computing device (Column 4, lines 50-54). Accepting a fee from a user in exchange for outputting digital information can be considered a purchasing transaction. The ATM can communicate with the portable computing device through various communications ports including Universal Serial Bus Port, Parallel Port, RS-232 Serial Port, Infrared Ports, Radio Frequency Ports, or any other type of wireless communication port (Column 4, lines 45-49). Cellular telephony is a type of wireless communication, and is considered to fall under the terminology "any other type of wireless communication port." Ramachandran further teaches the use of the ATM with Secure Digital Music Initiative (SDMI) files, which limit the playback and duplication of the files (Column 2, lines 27-36). It is considered inherent to Ramachandran that access to the data objects stored within the ATM will be disabled upon conclusion of the purchasing transaction. Connecting to the ATM is considered the same as connecting to a physical storage medium, because it is deemed inherent that the files or digital information or data objects are stored within the ATM on a physical storage medium such as a hard disk. Without a physical storage medium to store the data objects, the ATM would be unable to distribute the data objects if they were stored in volatile memory and there was a loss of power.

Motivation exists for the inventor to use the ATM to dispense digital information to personal handheld computer systems like Hawkins using either wireless connections or connecting to increase income for the ATM (Ramachandran, Column 1, lines 36-44), or to offer alternative file formats with built in copy protection which limit the playback and duplication of the files (Ramachandran, Column 2, lines 27-36).

It is obvious to one of ordinary skill in the art to use the Hawkins device to purchase digital information, or data objects, from ATMs as disclosed by Ramachandran. It is obvious to one of ordinary skill in the art that connecting Hawkins to the Ramachandran ATM is equivalent to reading the physical storage medium in Ramachandran. When the data is read from the physical storage medium to Hawkins, the data is considered loaded on to Hawkins. It is obvious to one of ordinary skill in the art that at the conclusion of the purchasing transaction the access to the ATM physical storage medium will be disabled. It is obvious to one of ordinary skill in the art that if both the ATM and the Hawkins device have wireless communications ability that said wireless communications ability should be utilized in accessing the data objects. It is obvious to one of ordinary skill in the art that cellular telephony is a type of wireless communications and should be utilized in accessing the ATM.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 1 above, and further in view of CNET.com – Downloads – PalmPilot – PC – Utilities, hereafter referred to as CNET, published on June 9, 2000.

Hawkins discloses a mobile computer system able to transfer data over the World Wide Web as applied to claim 1 above. Hawkins further discloses that the

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organizer portion of the mobile computer system is equivalent to the PalmPilot (Column 1, lines 16-17). Hawkins fails to disclose digital objects that enhance the functionality of the existing machine.

CNET discloses 138 downloadable utilities for the PalmPilot, which enhance the functionality of the organizer.

Motivation exists for the inventor to connect the Hawkins machine to the Web (Hawkins Column 3, line 47) to download software to perform functions including performing a complete backup of the organizer and customizing the alarm (CNET).

It would be obvious to one of ordinary skill in the art to use the Hawkins device to connect to the World Wide Web and download one of CNET's utilities to enhance the functionality of the device.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 3 above, and further in view of Armanto et al., (U.S. Patent No. 6,094,587).

Hawkins discloses a mobile computer system adapted to be operable as a mobile telephone with electronic visual display used to display the digital objects currently held in the digital object store of the other machine as applied to Claim 33. Hawkins fails to disclose the digital object can be a ring tone.

Armanto discloses that users of a mobile station, or mobile computer system, can send ringing tones to each other. (Column 4, lines 16-17)

Motivation exists for users to swap ringing tones that the user has programmed themselves. (Column 4, lines 25-30).

It is obvious to one of ordinary skill in the art to swap ring tones between the Hawkins devices.

Claims 38-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 3 above, and further in view of Ozkan et al., (U.S. Patent No. 6,748,421).

Hawkins discloses a mobile computer system with electronic visual display as applied to Claim 3. Hawkins further discloses a speaker unit that is present in the machine (Figure 3A, item 365). Hawkins fails to disclose that the displayed object can take the form of a decorative virtual card or token, or that the displayed object can comprise a moving image with associated textual information or audio information suitable for playback by the machine.

Ozkan discloses a method of conveying video messages (Column 1, line 8). These video messages include image data and associated audio data (Column 2, lines 1-2). Additional information can be assigned in labels, which can describe the topic or content of the video message (Column 9, lines 42-45). Said labels can be described as associated textual information, which is displayed on the display as shown in Figure 7. The image data in the video messages can be alternately described as a decorative virtual card or token, as a decorative virtual card or token is synonymous with image. The video messages are transported by use of Internet and/or intranet or other data or file transfer method or system (Figure 13A, item 1301) between two computers (Figure 13A, items 1200 and 1300).

Motivation exists for the inventor to convey video messages between two computers, such as two send a weekly report to one or more recipients (Column 1, lines 51-52). Hawkins' device is a mobile computer, and being such qualifies for this video message conveyance system.

It is obvious to someone of ordinary skill in the art to transmit video messages as described by Ozkan via data transfer to handheld computers such as the Hawkins device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is 703-305-0469. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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